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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)
	)
Developing a Unified Intercarrier Compensation Regime	) CC Docket No. 01-92
	)

TO: The Commission

COMMENTS OF THE WESTERN ALLIANCE

Gerard J. Duffy
Blooston, Mordkofsky, Dickens, Duffy & Prendergast
2120 L Street, NW (Suite 300)
Washington, DC 20037
Telephone: (202) 659-0830
Facsimile: (202) 828-5568
E-mail: pid@bmjd.com

The Western Alliance
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SUMMARY

The Western Alliance opposes the "eventual" application of bill-and-keep to interstate access charges as part of a Unified Intercarrier Compensation Regime, or for any other reason.

Bill-and-keep is not an appropriate substitute for access charges in high-cost rural areas. Whereas the current access charge system allows the substantial costs of local exchange networks in rural areas to be shared by most of the carriers and end-users that benefit from them, the bill-and-keep regime under consideration would force rural end-users to bear virtually all of these costs.

Using data obtained from the National Exchange Carrier Association ("NECA"), the Western Alliance has shown that rural customers in many small study areas and in many portions of the **24** Western states will be forced to bear local service rate increases of $50-to-$100 or more per month per line if access charges are replaced by a bill-and-keep regime. Increases of this magnitude will render basic telephone service unaffordable for many rural households, and will impair decades of progress toward Universal Service as tens of thousands of rural households drop off the network.

The current access charge system may not be perfect, but it has enabled telephone penetration to reach and remain at **94** percent nationwide, including rural portions of the Western states. In addition, it has enabled rural telephone companies to make the infrastructure investments necessary to provide quality services to their customers at affordable rates, and to offer their rural customers services comparable to those available

in urban areas at comparable rates. However, even the possibility of an "eventual" bill-and-keep regime will deter many rural telephone companies from making further investments to expand or upgrade their local exchange infrastructure.

Before creating uncertainty regarding future rural local service rates and infrastructure investment, the Commission should allow implementation of the Coalition for Affordable Local and Long Distance Service ("CALLS") Plan to proceed, and act upon the proposals in the pending Multi-Association Group ("MAG") Plan proceeding. It is quite possible that these Plans will enable the Commission to meet its regulatory and public interest goals, and eliminate the need for it to consider a theoretical bill-and-keep regime that will impose crippling local service rate increases upon many rural customers.

There has yet to be enunciated a good reason to replace access charges with a bill-and-keep regime. The "regulatory arbitrage" and "terminating monopoly" concerns advanced by some can be resolved much more efficiently and effectively by eliminating the current access charge exemption for Internet Service Providers, and by regulating any terminating access rates found to be unreasonably high.

Finally, if the Commission does prescribe a mandatory bill-and-keep regime to replace access charges, it should exempt rural telephone companies in order to prevent the imposition of unaffordable local service rate increases upon rural customers.

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TO: The Commission

COMMENTS OF THE WESTERN ALLIANCE

The Western Alliance, by its attorney, submits its comments in response to the Commission's Notice Of Proposed Rulemaking (Developing a Unified Intercarrier Compensation Regime), CC Docket No. 01-92, FCC 01-132, released April 27, 2001 ("NPRM").

The Western Alliance is very concerned with the Commission's statements in the NPRM that it may adopt a unified intercarrier compensation regime that would entail the "eventual application" of bill-and-keep to interstate access charges. See e.g., NPRM at para. **4.** The Western Alliance does not believe that a mandatory bill-and-keep mechanism will be an appropriate or feasible replacement for access charges in high-cost rural areas at any time during the foreseeable future. Whereas the current access charge system allows the substantial costs of constructing, operating and maintaining local exchange networks to be shared by end-users, interexchange carriers ("IXCs") and others that benefit from such networks, a bill-and-keep regime would force end-users to bear all of these costs alone. **As** detailed in these Comments, the elimination of access charges under bill-and-keep regulation will require customers residing in many small study areas and in many portions of the Rural West to endure local service rate hikes of $50-to-$100 or more per month. Increases of this magnitude will give new meaning to the term "rate shock," and will render basic telephone service unaffordable for many rural households. Such increases will set the statutory goal of Universal Service (including the availability of reasonably comparable services and rates in urban and rural areas) back decades as tens of thousands of rural households drop off the network.

In addition, even the possibility of an "eventual" bill-and-keep regime will deter many local exchange carriers ("LECs") in the Rural West from investing further to expand or upgrade their local exchange infrastructure. It is very costly to construct and provision local exchange facilities capable of meeting current Universal Service requirements, not to mention broadband facilities, in the rugged and sparsely populated rural areas of the Western states. If these investments must be recouped wholly or primarily via local service rates that many rural customers cannot afford, the resulting uncertainty will preclude many infrastructure investments from ever being made.

The Western Alliance will not argue that the current access charge system is perfect. However, for the past 17 years, it has sustained and enhanced the provision of quality telecommunications services at affordable rates in all regions of the Nation, while allowing vigorous interexchange competition to develop. The proof in the pudding is that nationwide telephone penetration rose from **91.8** percent to **94** percent from **1984** to **1993,** and has remained stable at approximately **94** percent since **1993.** Moreover, the access charge system has helped residents of high-cost rural service areas to receive facilities and services reasonably comparable to those available in urban areas, and at rates reasonably comparable to those charged in urban areas.

To the extent that access charge reform is necessary, the Commission and the telecommunications industry have already undertaken it with the July 2000 implementation of the Coalition for Affordable Local and Long Distance Service ("CALLS") Plan for price cap LECs, and with the consideration of access charge modifications for rate-of-return LECs in the pending Multi-Association Group ("MAGI) Plan proceeding. Among the advantages of these plans is that they will create some needed regulatory stability and certainty for five or so years in a changing industry. The Commission should give the CALLS Plan and the ultimate version of the MAG Plan a fair opportunity to function over their terms, and study whether these Plans are meeting their regulatory and public interest goals, before considering untried and potentially destabilizing proposals such as the replacement of access charges by a mandatory bill-and-keep regime.

It appears from the NPRM that one of principal goals of a bill-and-keep regime is the reduction of regulatory arbitrage opportunities. If this is true, the major source of potential regulatory arbitrage in the existing access charge system is the Commission's own exemption of Internet Service Providers ("ISPs") from the payment of access charges. Whether or not this exemption was warranted during the early development of the commercial Internet, those fledgling days are now over and it is time for ISPs and their customers to pay their fair share of the substantial and increasing switching and line costs incurred by LECs to carry their Internet traffic (many of which calls last for hours). To the extent that the Commission is concerned with regulatory arbitrage, it should eliminate the **ISP** exemption and also require ISPs to make Universal Service Fund contributions to support the construction and operation of local exchange networks in high-cost areas.

In the alternative, if the Commission for any reason determines to prescribe a mandatory bill-and-keep regime to replace access charges, it should exempt rural telephone companies. The Commission has already indicated that it will exempt other entities (such as Internet backbones) and other interconnection arrangements (such as CLEC-to-CLEC, IXC-to-IXC, CMRS-to-CMRS and CMRS-to-IXC arrangements) from any unified intercarrier compensation regime that it may adopt. The Commission should add rural telephone companies to this list, particularly because of the large portion of their revenue base comprised by access charges and because of the unaffordable local service rate increases that would be imposed upon their customers as the result of a change to a bill-and-keep environment.

I.
The Western Alliance

The Western Alliance is a consortium of the member companies of the Western Rural Telephone Association and the Rocky Mountain Telecommunications Association. It represents about 250 rural LECs operating west of the Mississippi River.

Western Alliance members are generally small LECs serving sparsely populated, high-cost rural areas of the Western states. Most members serve less than 3,000 access lines overall, and less than 500 access lines per exchange. Their revenue streams differ greatly in size and composition from those of the price cap carriers. Because of their low customer densities, most members generate proportionally smaller local service revenues than the national telephone industry average, and rely upon interstate access charges and federal universal service support for 45-to-70 percent of their revenue base.

At the same time, Western Alliance members incur per-customer facilities and operating costs far in excess of the national average. Not only does their small size preclude realization of significant economies of scale, but also they serve remote and rugged areas where the necessary investment per loop is much higher than in urban and suburban America. Their primary service areas are comprised of sparsely populated farming and ranching regions, isolated mountain and desert communities, and Native American reservations. In many of these high cost rural areas, the Western Alliance member not only is the carrier of last resort, but also is the sole telecommunications provider ever to show a sustained commitment to investment and service in these "frontier" areas.

Western Alliance members are highly diverse. They did not develop along a common Bell System model, but rather employ a variety of network designs, equipment types and organizational structures. They must construct, operate and maintain their networks under a wide variety of climate and terrain conditions, ranging from the tropics of Hawaii to the deserts of Arizona to the frozen tundra of Alaska, and from the valleys of Oregon to the plains of Kansas to the mountains of Wyoming.

Because of their significant reliance upon interstate access revenues, Western Alliance members have a clear and substantial interest in this and other Commission proceedings that may result in the elimination or reduction of such revenues.

II.
Impact On Local Service Rates of Rural Customers of The Reulacement of Access Charges By A Bill-And-Keel, Regime

Under a bill-and-keep regime, each carrier will be required to recover from its own end-user customers substantially all of its costs for originating and terminating calls. NPRM at para. 9. This is true for the "Central Office Bill and Keep" ("COBAK") approach, which prohibits each carrier from recovering any costs of its customers' local access facilities from an interconnecting carrier. Id. at para. 23. It also true for the "Bill Access to Subscribers - Interconnection Cost Split" ("BASICS") approach, which requires carriers to recover all of their "intra-network costs" from their end-user customers. Id. at para. 25.

If the Commission replaces its current access charge system with a bill-and-keep regime, the local exchange costs presently recovered via access charges will have to be recovered from local service rates and/or universal service support mechanisms. For the National Exchange Carrier Association ("NECA") pool members, over $2.243 billion in interstate access revenues (over $1.229 billion in the 24 Western states alone) will have to be recovered from these two alternative sources. Given that the Commission's Universal Service Fund ("USF") contribution factor is already almost 7.0 percent of interstate revenues (6.8941 percent for the Third Quarter of 2001), most network costs no longer recovered from interstate access charges will instead have to be recovered directly from end-users via increased monthly subscriber line charges ("SLCs") and increased monthly local service rates.

The Western Alliance believes that the replacement of the current access charge system by a bill-and-keep regime will have **very substantial adverse impacts** upon the local service rates imposed: (a) upon rural customers who reside in the smaller study areas; and (b) upon rural customers who live in the Western states. In order to determine the nature and size of these potential impacts, the Western Alliance obtained from NECA data regarding intrastate access revenues, and the interstate access revenues and revenue requirements for its Common Line and Traffic Sensitive pool members, including state-by-state information for the **24** Western states.[1] The NECA data assumes: (1) that the NECA Common Line and Traffic Sensitive pools remain essentially unchanged; **(2)** that the Local Switching Support ("LSS") and Long Term Support ("LTS") mechanisms remain unchanged; and **(3)** that 50 percent of switched and dedicated (non-TIC) transport costs continue to be recovered directly from IXCs.

The NECA data allows calculation of the impact on local service rates if a bill-and-keep system requires NECA members to recover their interstate access charge revenues from their local service rates. The Western Alliance has determined these impacts under the existing access charge system, and under an alternative scenario that assumes that at least some elements of the proposed MAG Plan have been implemented. Specifically, the "MAG Plan scenario" assumes: (1) that residential SLCs have been increased from $3.50 to the maximum of $6.50 per month, and that business SLCs have been increased from $6.00 to the maximum of $9.20 per month; and **(2)** that a ***$556.5*** million per-year Rate Averaging Support ("RAS") mechanism has been established and funded.

[1] **These twenty-four states are Alaska,** ***Arkansas,*** Arizona, **California, Colorado, Hawaii, Iowa,** Idaho, **Kansas,** Louisiana, **Minnesota, Missouri, Montana, North Dakota, Nebraska, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas,** Utah, **Washington and Wyoming. In order to avoid public disclosure** of **proprietary and confidential data, the Alaska and Hawaii data have been consolidated and reported together with data for NECA members in American Samoa,** Guam **and the U.S. Virgin Islands.**

A.
Impact of Bill-And-Keep Regime
Upon Local Service Rates of Rural Customers in Small Study Areas

Analysis of the **NECA** data shows that the adverse local service rate impacts of the replacement of interstate access revenues by a bill-and-keep regime will be most onerous for rural customers residing in the very smallest study areas -- namely, those having 500 or fewer lines. Rural customers in these study areas will suffer local service rate increases that average $46.10 per month per line, and that range as high as $172.42 per month per line. Under the alternative **MAG** Plan scenario, these same customers in the very smallest study areas would be subjected to local service rate increases that average $21.92 per month per line, and that range as high as **$87.53** per month per line, over and above the $3.00 and $3.20 **SLC** increases per month per line included in the **MAG** Plan.

For rural customers residing in other small (but somewhat larger) study areas, the local service rate increases resulting from elimination of interstate access revenues under a bill-and-keep regime are equally disconcerting. This can be seen by the results of the analysis of the **NECA** data for all study area sizes:

1. Local Service Rate Increase Per Month
To Offset Loss of Interstate Access Revenues Under Bill-And-Keep System

	Current System		MAG Plan Scenario	
Study Area Size	Average Increase	Largest Increase	Average Increase	Largest Increase
<500	$46.10	$172.42	$21.92	$87.53
501- 1000	$26.03	$135.01	**$11.51**	$46.53
1001-2500	$16.60	$100.62	$ 6.38	$49.35
2501- 5000	$13.26	$ 93.79	$ 4.29	$23.73
5001-10000	$12.70	$ 58.92	$ 3.97	$24.12
10001-20000	$ 9.94	$ 43.27	$ 2.89	$20.00
20001-50000	$ 8.96	$ 19.34	$ 2.58	$10.12
>50000	$ 7.70	$ 11.80	$ 2.47	$ 6.42

Note that rural customers in study areas having 501 to 1,000 lines will experience local service rate increases as high as $135.01 per month per line, that rural customers in study areas having 1,001 to 2,500 lines will experience local service rate increases as high as $100.62 per month per line, and that rural customers in study areas having 2,501 to 5,000 lines will experience local service rate increases as high as $93.79 per month per line. Even under the alternative MAG Plan scenario, rural customers in study areas having 501 to 1,000 lines will experience local service rate increases as high as $46.53 per month per line; rural customers in study areas having 1,001 to 2,500 lines will experience local service rate increases as high as $49.35 per month per line; and rural customers in study areas having 2,501 to 5,000 lines will experience local service rate increases as high as $23.73 per month per line.

The variations between the average and maximum monthly rate increases in each study area category highlight the facts: (a) that independent telephone companies differ greatly from one another; and (b) that the impact of regulatory changes upon the local service rates paid by their customers will also differ significantly from company to company. In the Western states, factors such as access line size, residential and business customer bases, location, terrain, climate and technology have resulted in significant differences among the revenue and cost structures of the independent telephone companies serving the region.

These differences also raise serious questions as to whether the NECA pools can survive under a mandatory bill-and-keep regime. If carriers are required to recover all or most of their network costs from the local service rates paid by their end users, carriers having below-average costs will have little incentive to raise their local service rates even further, as well as to incur additional administrative costs, in order to participate in the NECA pools. Rather, there is likely to be a significant exodus of the larger, below-average-cost carriers from the NECA pools. And with each round of departures, the pooled rates and average costs will increase, thereby creating a new group of below-average-cost carriers with an increased incentive to leave the pools. **As** a result, the upper end of the range of local service rate increases under a bill-and-keep system is more important than the average increase. This is because rural carriers will be forced to increase their local service rates to the levels necessary to recover their own costs, if they no longer participate in the **NECA** pools.

The Western Alliance notes further that the foregoing impact determinations do not represent the entire potential adverse impact of a bill-and-keep system upon local service rates. This is because they entail only the local service rate increases necessary to offset elimination of **interstate** access charge revenues. If the Commission were to substitute a bill-and-keep mechanism for interstate access charges, it will become extremely difficult for states to maintain their existing intrastate access charge systems.

Some states have established intrastate access rates and rate structures that "mirror" the federal system. Even states that have established their own separate intrastate access rates and rate structures would experience significant administrative and enforcement problems maintaining these systems in the face of a federal conversion to bill-and-keep due to factors such as tariff and rate arbitrage. Hence, it is likely that a federal bill-and-keep regime would place great pressure upon many states to shift to bill-and-keep for intrastate access.

The Western Alliance also asked NECA for data on the local service rate impacts of substituting bill-and-keep regimes for intrastate access systems. The local service rate impacts of the replacement of intrastate access charge systems by state bill-and-keep mechanisms are shown below:

2. Local Service Rate Increase Per Month
To Offset Loss of Intrastate Access Revenues Under Bill-and-Keep System

Studv Area Size	Average Increase	Largest Increase
<500	$21.39	$41.16
501- 1000	$19.03	$69.13
1001- 2500	$15.91	$88.05
2501- 5000	$15.24	$49.84
5001- 10000	$10.18	$49.17
10001-20000	$12.61	$28.97
20001-50000	$ 8.50	$21.94
>50000	$ 8.80	$24.66

The NECA data show that the largest adverse local service rate impacts of the replacement of intrastate access charges by bill-and-keep arrangements will be felt by rural customers residing in small study areas. Note that some rural customers residing in each study area category of 10,000 lines or less will suffer **additional** local service rate increases of more than $40 per month per line on account of lost intrastate access revenues alone. These additional local service rate increases will be as high as $88.05 per month per line in study areas having 1,001 to 2,500 lines, and as high as **$69.13** per month per line in study areas having 501 to 1,000 lines.

Hence, if state commissions follow the lead of the Commission in replacing their intrastate access charge systems with bill-and-keep regimes, the aggregate interstate/ intrastate impact on local service rates will be extremely harsh for rural customers residing in small study areas. In a significant number of these small study areas, rural customers will be forced to bear total local service rate increases considerably in excess of $100 per month per line.

B.
Impact of Bill-And-Keep Regime
Upon Local Service Rates of Rural Customers in Western States

Looking at the NECA rate impact data on a state-by-state basis, it is clear that replacement of the existing interstate access charge system by a bill-and-keep regime will produce local service rate shock throughout the **24** Western states, particularly in the more sparsely populated and high-cost mountain states.

1. State-by-State Local Service Rate Increase Per Month To Offset Loss of Interstate Access Revenues Under Bill-and-Keep System

	Current System		MAG Plan Scenario	
	Average	Largest	Average	Largest
State	Increase	Increase	Increase	Increase
Alaska/Hawaii	$12.57	$ 77.64	$ 3.99	$49.94
Arkansas	$ 8.69	$ 60.98	$ 2.17	$41.75
Arizona	$19.80	$151.21	$ 6.66	$45.09
California	$10.35	$ 38.45	$ 3.66	$20.19
Colorado	$11.71	$117.84	$ 3.30	$38.45
Iowa	$16.83	$103.44	$ 6.88	$35.48
Idaho	$17.63	$ 47.79	$ 6.36	$26.03
Kansas	$21.80	$ 49.19	$ 6.57	$26.50
Louisiana	$ 8.41	$ 33.21	$ 2.12	$ 9.08
Minnesota	$10.67	$ 83.86	$ 3.24	$54.11
Missouri	$10.53	$ 27.90	$ 2.85	$13.59
Montana	$16.53	$ 37.96	$ 5.47	$24.44
North Dakota	$13.51	$ 92.53	$ 4.61	$59.59
Nebraska	$16.11	$ 70.66	$ 5.70	$27.71
New Mexico	$29.87	$135.01	$15.32	$53.11
Nevada	$15.13	$172.42	$ 5.17	$87.53
Oklahoma	$14.02	$169.27	$ 5.19	$44.32
Oregon	$11.47	$ 63.53	$ 3.31	$33.54
South Dakota	$12.81	$ 40.73	$ 4.57	$18.01
Texas	$ 8.13	$111.93	$ 2.49	$46.53
Utah	$36.04	$100.62	$11.62	$49.35
Washington	$ 9.10	$ 22.60	$ 2.70	$ 9.21
Wyoming	$21.17	$ 62.82	$ 6.32	$41.15

Note that rural customers in eight of the 24 Western states (Arizona, Colorado, Iowa, New Mexico, Nevada, Oklahoma, Texas and Utah) will be subject to local service rate increases of more than $100 per month per line to offset interstate access revenue losses under bill-and-keep. **And** rural customers in another seven Western states (Alaska, Arkansas, Minnesota, North Dakota, Nebraska, Oregon and Wyoming) will be forced to bear local service rate increases of more than $60 per month per line to replace interstate access revenues. Even under the MAG Plan scenario, rural customers in eleven Western states (Alaska, Arkansas, Arizona, Minnesota, North Dakota, New Mexico, Nevada, Oklahoma, Texas, Utah and Wyoming) would be saddled with local service rates increases in excess of $40 per month per line, in addition to the maximum SLC increases in the MAG Plan scenario.

As indicated above, the adoption by the Commission of a mandatory bill-and-keep system for interstate access will place great pressure upon the states to follow suit. The supplemental **NECA** data regarding intrastate access revenues show that state adoption of complementary bill-and-keep mechanisms will significantly exacerbate the local rate increases necessary to replace interstate access revenues. The local service rate impact of state commission replacement of current intrastate access systems by mandatory bill-and-keep mechanisms in the Western states can be summarized as follows:

2. State-by-State Local Service Rate Increase Per Month To Offset Loss of Intrastate Access Revenues Under Bill-and-Keep System

State	Average Increase	Largest Increase
Alaska/Hawaii	$13.77	$34.03
Arkansas	$ 7.01	$25.19
Arizona	$15.24	$17.14
California	$15.02	$35.92
Colorado	$ 7.03	$13.31
Iowa	$18.50	$29.26
Idaho	$12.21	$25.70
Kansas	$14.43	$22.08
Louisiana	$ 2.39	$ 4.70
Minnesota	$15.55	$24.48
Missouri	$12.02	$42.79
Montana	$ 9.51	$22.98
North Dakota	$ 7.40	$26.99
Nebraska	$11.85	$11.85
New Mexico	$26.59	$50.60
Nevada	$15.69	$15.69
Oklahoma	$13.61	$30.84
Oregon	$ 4.26	$25.33
South Dakota	$11.18	$16.63
Texas	$ 5.70	$27.26
Utah	$15.29	$16.76
Washington	$ 6.56	$17.93
Wyoming	$ 9.38	$10.52

If bill-and-keep is also mandated by their state commissions, rural customers in five Western states (Alaska, California, Missouri, New Mexico and Oklahoma) will incur local service rate increases of more than $30 per month per line just to replace the lost intrastate access charge revenues. Rural customers in another nine Western states (Arkansas, Iowa, Idaho, Kansas, Minnesota, Montana, North Dakota, Oregon and Texas) will be forced to bear local service rate increases of $20 or more to make up for loss of intrastate access charge revenues

Hence, if state commissions in the Western states follow the lead of the Commission in replacing their intrastate access charge systems with bill-and-keep regimes, the aggregate interstate/intrastate impact on local service rates will be extremely adverse for rural customers residing in portions of their states. The NECA data clearly indicates that rural customers will be forced to bear total local service rate increases of $50-to-$100 or more per month per line in significant portions of many Western states, and well in excess of $100 per month per line in an alarming number of instances.

C.
Conclusions Regarding Local Service Rate Impacts

It is absolutely clear that local service rate increases of this magnitude have no precedent in the history of the American telecommunications industry, and that they will cause many rural households to discontinue their telephone service. Price elasticity studies are not necessary to show that $50-to-$100 per month or greater local service rate increases will be simply too much for many elderly rural residents living on fixed incomes, for many rural households with below average incomes, and for many rural residents adversely affected by national or regional economic downturns. Whereas one can argue over the ultimate size of the drop-offs from the network, the certainty is that the days of 90-to-94 percent or greater telephone penetration in the Rural America, and particularly the Rural West, will be over.

Moreover, the unique workings of network economics make every user's telephone service more valuable as the total number of users on the network increases, and less valuable as such number decreases. This means that a decline in telephone penetration and universal service in the Rural West will injure all telecommunications users in the Nation, not just those that can no longer afford service. More concretely?if a grandmother living on Social Security in rural Arizona can no longer afford $100 per month local telephone service, her children and grandchildren in Chicago, Seattle, San Antonio and Washington, D.C. who can no longer call her at home will also suffer a significant loss in the value of their telephone service even if their own local service rates remain relatively stable.

In sum, imposition of a bill-and-keep regime to replace the current access charge system will produce crippling rate hikes and significant service drop-offs in the Rural West. It will decrease telephone penetration levels significantly in the Rural West, and thereby diminish the value of every American's telephone service.

III
The Current Access Charge System Has Enabled The Provision of Quality, Comearable And Affordable Telecommunications Service in The Rural West

The Western Alliance believes that rural telephone companies have been one of the great and continuing success stories of the telecommunications industry. Using nationwide pooling of interstate access revenues, they have taken the initiative to overcome the obstacles of size, geography, demographics and economics and to bring quality telecommunications services at affordable rates to isolated areas that larger carriers had shown little or no interest in serving. The Western Alliance believes that the Commission should recognize the accomplishments of rural telephone companies in its formulation of telecommunications policy, and encourage them to continue adapting emerging technologies to rural needs and conditions. However, recent Commissions often have appeared more intent upon reducing the access and universal service revenues relied upon by rural telephone companies.

Looking back at the development of telephony in the United States, rural telephone companies were left to serve the most remote and/or rugged portions of the nation where sparse populations and high costs minimized profit potential. **As** a result, rural telephone companies serve a substantial 38 percent of the **U.S.** land area, but only about eight percent of its access lines. Rural Task Force, The Rural Difference, White Paper 2 (January 2000) at p. 8. The average population density of the areas served by rural telephone companies is 13 persons per square mile (and as low as 0.58 persons per square mile in Alaska and 1.25 persons per square mile in Wyoming), compared to 105 persons per square mile in areas served by non-rural telephone companies. Id. at pp. 8-9.

The rugged terrain and low-density populations served by rural telephone companies increase their facilities costs to levels well above the telecommunications industry averages. Total investment per loop for rural telephone companies averages over $5,000 (and ranges from $1,400 to $40,500 per loop), compared to less than $3,000 per loop (with a range of $1,570 to $4,350 per loop) for non-rural carriers. Id. at p. **12.** Plant-specific costs for rural telephone companies average $180 per loop (with a range from $4 to $1,585 per loop), compared to $97 per loop (with a range from $38 to $163 per loop) for non-rural carriers. Id. at pp. 12-13. Rural telephone companies serve an average of 1,254 customers per switch, compared to over 7,000 customers per switch for non-rural carriers. Id. at p. 11.

Rural telephone companies serve lower-income households and smaller business customers than their larger counterparts. The average annual household income in the service areas of rural telephone companies is $31,211, **or** approximately 20 percent lower than the average annual household income of **$38,983** in the service areas of non-rural carriers. Id. at p. **13.** On average, about 13 percent of business lines served by rural telephone companies are **used** by multi-line business customers, compared to over **21** percent of the business lines served by non-rural carriers. **Id.** at p. 10.

Yet, notwithstanding these substantial geographic, demographic and economic disadvantages, rural telephone companies have brought quality and comparable telecommunications services at affordable and comparable rates to Rural America under the current access charge system.

Western Alliance members presently provide quality service throughout the Rural West at local service rates that generally range from $10 to $20 per month. For example, in New Mexico, the local service rates of rural telephone companies currently range from $9.20 to $22.40 per month per line for residential customers (before SLCs and taxes). These rates have proven affordable for rural customers. They have enabled Western Alliance members to maintain local telephone penetration rates that generally exceed 90 percent, and that are comparable to the penetration rates in their states.

1. Telephone Penetration Rates in Western States

State	1997	2000
Alaska	94.3%	95.5%
Arizona	90.3%	94.4%
Arkansas	88.7%	90.1%
California	94.0%	95.6%
Colorado	96.5%	95.2%
Hawaii	94.9%	93.6%
Idaho	95.0%	93.7%
Iowa	96.1%	96.5%
Kansas	94.9%	94.1%
Louisiana	91.2%	90.9%
Minnesota	97.4%	97.8%
Missouri	97.5%	95.5%
Montana	94.1%	95.1%
Nebraska	97.0%	98.1%
Nevada	93.8%	95.4%
New Mexico	86.0%	91.3%
North Dakota	96.2%	94.8%
Oklahoma	91.8%	90.3%
Oregon	95.3%	94.2%
South Dakota	94.7%	95.3%
Texas	91.0%	93.5%
Utah	97.5%	95.8%
Washington	96.1%	93.7%
Wyoming	94.9%	94.8%
U.S. Average	94.0%	94.5%

SOURCE: FCC Industry Analysis Division, Telephone Penetration **By** Income **By** State, released July 2001

The Western Alliance is aware of concerns expressed from time to time that the local service rates of some rural telephone companies are considerably lower than the local service rates in, for example, the Washington, D.C. area. However, a major reason for this **is** that the local, toll-free calling areas of most rural telephone companies contain many fewer businesses and households than Verizon's Metropolitan Washington, DC-MD-VA calling area. Approximately 70-to-80 percent of the customers of the smaller rural telephone companies can reach less than 5,000 other customers with a local call.

The Rural Difference, supra at p. 11. Many rural telephone company customers must make toll calls to schools, hospitals, doctors, government agencies, stores and other frequently-called destinations outside their local calling scope. Rural telephone companies have kept their local service rates affordable to offset the higher toll costs of their customers. For many Western Alliance members, the aggregate local service and intrastate toll charges paid by their customers each month are reasonably comparable to the aggregate local service and intrastate toll charges paid by customers in the urban portions of their state.

Many Western Alliance members have made substantial investments to upgrade and modernize their networks. Virtually all have had digital switches installed; in fact, at the end of 1997, over 99 percent of rural telephone company switches were digital (compared to approximately 85 percent of the switches of the Regional Bell Operating Companies). Rural Utilities Service, 1997 Statistical Report Rural Telecommunications Borrowers, I.P. 300-4 (August 1998), at p. 33; Common Carrier Bureau, 1997 Statistics of Common Carriers (November 30,1998), at p. 4 and Table 2.7.

These digital switches have enabled Western Alliance members to provide a wide variety of state-of-the-art customer calling, data and information services to their rural customers. Many Western Alliance members have led the way in their regions with the implementation of single party service, and with the construction of underground facilities to protect their customers from outages due to harsh weather. Western Alliance members have also participated in state-wide centralized equal access systems and regional fiber optic networks to lower the cost and improve the quality of the long distance toll services available to their customers.

In addition to being leaders in the furnishing of state-of-the-art facilities and services to their long-term rural customers and service areas, some Western Alliance members during the last decade have acquired and upgraded nearby rural exchanges that had long been neglected by larger carriers. The Accounting Policy Division's study area waiver files contain numerous examples not only of how rural telephone companies led their larger counterparts in bringing quality voice services to their rural customers, but also of how they purchased and upgraded long-neglected rural exchanges of larger carriers. See e.g. Union Tel. Co. and **US** West Communications. Inc., 12 FCC Rcd **1840** (1997) (upgrade to digital loop carrier, install new cable, replace aerial wire); **Pend** Oreille Tel. Co. and GTE Northwest, Inc., 12 FCC Rcd **63** (1997) (upgrade to fiber, offer single party service, purchase CLASS-capable digital switch); and Accipiter Communications. Inc. and **US** West Communications, Inc., 11 FCC Rcd 14962 (1996) (install fiber, digital switch, extend service to unserved areas). These Commission files also show that the local reputations and service records of the acquiring rural telephone companies resulted in vigorous support for these exchange acquisitions by state and local governments, local business communities, and the affected rural customers.

A primary reason for the success of rural telephone companies is that their managers (and often their owners themselves) reside in the rural communities served, and are therefore very responsive to the service needs of their neighbors. Another reason is that service to the local rural area is the primary focus and function of most rural telephone companies.

Many Western Alliance members have long been actively involved in promoting the economic development of their rural service areas. In addition to the local jobs that they create themselves, they have provided quality telecommunications and information services that have encouraged and enabled other business firms to locate and/or remain in their service areas.

At present, one of the major tasks facing rural telephone companies is the determination of when and how much to invest in the Digital Subscriber Line ("DSL") or other broadband facilities necessary to bring high-speed Internet access and other information services to rural customers who want them. According to NECA, the cost of upgrading the 3.3 million rural lines that will not be upgraded by 2002 is an estimated $10.9 billion. National Exchange Carrier Association, NECA Rural Broadband Cost Study (June 21, 2000). If the Commission keeps specific, predictable and sufficient cost recovery and universal service support mechanisms in place, rural telephone companies will continue to lead their larger counterparts in constructing broadband facilities, where feasible, to serve rural residents requesting them. However, if the Commission places the future availability of critical interstate access revenues in question, or jettisons them in favor of a bill-and-keep regime that increases local service rates by $50-to-$100 or more per month per line in rural areas, few prospective broadband investments will be made by rural telephone companies.

IV
Bill-And-Keep Is Not A Feasible Replacement For The Current Access Charge System In Rural America

The rate shock resulting from replacement of access charges by a bill-and-keep regime would violate the universal service principles set forth in Sections 254(b)(1), 254(b)(2) and 254(b)(3) of the Communications Act. Local service rate hikes of $50-to-

$100 per month or more would render basic local telephone service unaffordable in many portions of the Rural West. The resulting local service rates would not be reasonably comparable to rates charged for similar services in the urban areas of such states. And the customer drop-offs and revenue uncertainties resulting from these rate increases would deter future investment in basic telecommunications and broadband infrastructure, thereby threatening the future availability of quality voice services, as well as advanced telecommunications and information services.

The Commission's Universal Service Fund and Lifeline programs are not sufficient to offset or cushion the resulting rate shock. For the Third Quarter of **2001,** the federal Universal Service Fund contribution factor is already at **6.8941** percent. The Universal Service Fund is not capable of supporting a significant portion of the costs presently recovered from interstate access charges (over **$1.229** billion by NECA members in the **24** Western states alone) without the contribution factor being increased to well over 10 percent (which may not be politically viable). Likewise, the present Lifeline program is not sufficient to reduce, to affordable levels, local service rates that have been increased by $50-to-$100 or more per month per line by a bill-and-keep regime.

Assuming arguendo that changes are necessary to reform the current access charge system, such changes have already been commenced and should be given an opportunity to work before a unified intercarrier compensation regime is given further consideration. The CALLS Plan implemented in July **2000** was designed to reduce interstate access charges nationwide by **$3.2** billion during its first year, and to produce additional reductions in the access charges of the participating large LECs during the following four years of its existence. In addition, the access charge changes ultimately adopted by the **FCC** in the **MAG** Plan proceeding are likely to reduce the interstate access charges of smaller rate-of-return LECs during the term of such plan. The Commission should give these plans a chance to function, and monitor their impact on national, regional and local telecommunications services and infrastructure investment, **before** proposing further reforms and experiments.

The Western Alliance notes that a bill-and-keep regime may have significant adverse impacts upon the present system of nationwide averaged toll rates, as well as upon local service rates in rural areas. The current interstate access charge system has helped the Commission to maintain averaged toll rates nationwide, as is now required by Section 254(g) of the Communications Act. **A** bill-and-keep regime should not be adopted before its impact on toll rates is studied carefully.

The NPRM has not enunciated any reason requiring the jettisoning of the proven current access charge system in favor of mandatory bill-and-keep and its resulting rural local service rate increases. For example, regulatory arbitrage may be a potential future problem, but is not a critical present problem. The main threat of future regulatory arbitrage centers on the fact that Internet Protocol ("IP") telephony is not currently subject to access charges. IP telephony may have a significant cost advantage over traditional long distance voice services if that exemption remains in place and if certain IP telephony quality problems are resolved. However, IP regulatory arbitrage was created by the Commission's previous decision to exempt **ISPs** from access charges. It can be resolved effectively and efficiently by requiring ISPs to pay a fair price for their use of the Public Switched Telephone Network ("PSTN") rather than by requiring rural residents to pay an additional $50-to-$100 or more per month per line for their local telephone service.

Likewise, the NPRM's expressed concern regarding alleged "terminating access monopolies" is misplaced. Whenever an end-user exercises his or her right to select a primary local exchange carrier (LEC or CLEC) or wireless carrier, that carrier will naturally be the one that completes calls to the end-user at the number assigned by the carrier. This is the very essence of pre-subscription to a carrier. However, this relationship no more constitutes a "monopoly" than Safeway has a "monopoly" in the grocery business while a specific customer is shopping in one of its stores, or than Ford has a "monopoly" in the automobile business during the months or years immediately after a specific customer buys a new Ford. Rather, to the extent that pre-subscribed carriers have some "power" to set access rates for terminating calls to their customers, the Commission and state commissions have long possessed the power and jurisdiction to prevent abuses by regulating such terminating access rates. Federal and state regulators can and should continue to exercise that power in appropriate cases, rather than over-reacting by eliminating access charges altogether and imposing bill-and-keep regimes that will produce skyrocketing local service rates in many rural areas.

The Western Alliance acknowledges that some carriers have found it administratively feasible to enter into voluntary bill-and-keep arrangements with certain other carriers for limited purposes. However, before mandating bill-and-keep mechanisms for access and other intercarrier arrangements, the Commission needs to consider the fact that the local exchange or "last mile" (in rural areas, the "last 10-to-50 miles") portion of the telecommunications network is the most difficult and expensive portion of the network to construct, provision, operate and maintain. In addition to the LECs that construct these exchanges, a number of other carriers -- including, IXCs, ISPs and wireless carriers -- make substantial use of local exchange facilities to serve their customers (some, but not all, of which may be customers of the LEC). Under the current access charge system, IXCs and some wireless carriers pay something for their use of the local exchange network. This enables the costs of the local exchange network to be spread over a much larger base, and allows connectivity to remain affordable for virtually all Americans (as evidenced by the Nation's sustained telephone penetration rate of 94 percent).

Under a bill-and-keep regime, carriers will be required to recover the entire cost of their local exchange networks from their own end-users. For rural customers in the smallest study areas and for those in the Western states, this will all too frequently mean local service rate increases of $50-to-$100 or more per month per line, and significant numbers of disconnects by rural households unable or unwilling to pay such increases. Under such circumstances, why would any rural carrier elect to invest in local exchange facilities?

V.
<u>Conclusion</u>

The Commission should issue a ruling at an early date declaring that it will not replace the current access charge system with a mandatory bill-and-keep regime. Given that the Communications Act, as amended, requires it to promote both competition and universal service, the Commission should recognize that its current access charge system has helped to sustain over 94 percent telephone penetration nationwide, and has enabled rural telephone companies to bring state-of-the-art services at affordable rates to their high-cost service areas. It should further recognize that bill-and-keep mechanisms will impose $50-to-$100 per month or greater local service rate increases upon many rural customers to the substantial detriment of universal service and future investment in rural infrastructure. To the extent that adjustments to the current access charge system may be needed, the Commission should give the CALLS Plan and the ultimate version of the MAG Plan an opportunity to work before experimenting with the wholesale replacement of the system. Rather, minimal modifications such as regulation of "excessive" terminating access charges and/or elimination of the ISP exemption from access charges can efficiently and effectively deal with the "terminating monopoly" and "regulatory arbitrage" problems for which the Commission has expressed concern. Finally, if the Commission nonetheless determines to impose a bill-and-keep regime to replace interstate access charges, it should exempt rural telephone companies.

Respectfully submitted,
THE WESTERN ALLIANCE

By Gerard J. Duffy
Gerard J. Duffy

Its Attorney

Blooston, Mordkofsky, Dickens, Duffy & Prendergast
2120 L Street, NW (Suite 300)
Washington, DC 20037
Telephone: (202) 659-0830
Facsimile: (202) 828-5568
E-mail: gjd@bmjd.com

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CERTIFICATE OF SERVICE

I, Douglas W. Everette, hereby certify that I am an attorney with the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, and that a copy of the foregoing **Comments of The Western Alliance** were served by hand delivery on this 21st day of August, 2001, to the persons listed below.

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, **SW** – Room TW-B204
Washington, D.C. 20554

Paul Moon
Common Carrier Bureau
445 12th Street, **SW** – Room 3-C423
Washington, D.C. 20554

Jane Jackson
Common Carrier Bureau
445 12th Street, SW – Room 5-A225
Washington, D.C. 20554

International Transcription Service
445 12th Street, SW – Room CY-B402
Washington, D.C. 20554
(1 copy + diskette)

Wanda Harris
Common Carrier Bureau
445 12th Street, SW – Room 5-A452
Washington, D.C. 20554
(diskette)

Chairman Michael K. Powell
Federal Communications Commission
445 12th Street SW – Room 8-B201
Washington, DC 20554

Commissioner **Gloria** Tristani
Federal Communications Commission
445 12th Street SW – Room 8-B115
Washington, DC 20554

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
445 12th Street SW – Room 8-A204
Washington, DC 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street SW – Room 8-A302
Washington, DC 20554

Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street SW – Room 8-C302
Washington, DC 20554

Douglas W. Everette

Douglas W. Everette